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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kinometrics/TrueTime--Reconsideration
File: B-227305.2
Date: June 18, 1987

DIGEST

Dismissal of original protest is affirmed where protester failed to file protest within 10 working days of the date the basis for protest was known. A protest is filed for purposes of General Accounting Office (GAO) timeliness rules when it is received in GAO notwithstanding when it was allegedly mailed.

DECISION

Kinometrics/TrueTime requests reconsideration of our dismissal of its protest against the General Service Administration's rejection of its proposal as late in connection with solicitation No. GSC-KESV-0044-N.

We dismissed Kinometrics protest as untimely because it was not filed within 10 working days after Kinometrics learned its protest basis. 4 C.F.R. § 21.2(a)(2) (1986). Kinometrics stated that on May 8, 1987, it received GSA's letter stating that its proposal would not be considered because it was received after the closing date for receipt of offers. However, we did not receive Kinometrics' protest concerning the rejection of the firm's proposal as late until May 26, 1987, more than 10 working days after the firm states it learned its protest basis.

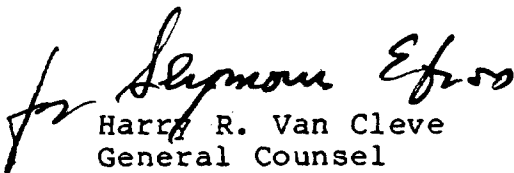
On reconsideration, Kinometrics argues that we should consider its protest timely because it was mailed on May 20, 1987, 8 working days from May 8, the date on which Kinometrics states it received GSA's rejection letter. Also, Kinometrics states that it did not receive verification from the Postal Service of the late delivery of its proposal until May 20, 1987. The firm believes that such verification was necessary to adequately support its protest and, thus, it waited until receiving the verification on May 20 to protest here.

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Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2), require that protests be filed within 10 working days after the basis of protest is known or should have been known, whichever is earlier. A protest is filed for the purposes of our timeliness rules when it is received in the General Accounting Office. Oxman Knowledge Organization--Request for Reconsideration, B-225000.2, Nov. 24, 1986, 86-2 C.P.D. ¶ 605; Yale Materials Handling Corp.--Reconsideration, B-223180.2, June 12, 1986, 86-1 C.P.D. ¶ 548. Moreover, our Office's time/date stamp establishes the time we receive protest materials absent other evidence to show actual earlier receipt. Yale Materials Handling Corp.--Reconsideration, B-223180.2, supra. Thus, for timeliness purposes, it is irrelevant that the protester mailed its protest within 10 working days after learning its basis of protest.

We properly dismissed Kinemetrics' protest as untimely because it was not received in this Office until May 26, more than 10 working days after the protester states it learned its basis of protest upon receipt on May 8 of GSA's letter advising that Kinemetrics' proposal would not be considered because it was received late. See Yale Materials Handling Corp.--Reconsideration, B-223180.2, supra. Concerning the protester's statement that it waited to protest here until it received verification of late delivery of its proposal from the Postal Service, as explained above, our timeliness regulations require that protests be filed within 10 working days after the basis of protest is known. 4 C.F.R. § 21.2(a)(2). Here, upon receipt of GSA's rejection letter on May 8, Kinemetrics clearly knew its basis of protest and had 10 working days to file its protest from that date.

Our prior dismissal is affirmed.


Harry R. Van Cleve
General Counsel